

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TANYA STUTSON,

Plaintiff,

vs.

WARDEN REED *et al.*,

Defendants.

Case No.: 11-CV-03979 YGR

ORDER TO SHOW CAUSE WHY AMENDED
COMPLAINT SHOULD NOT BE STRICKEN FOR
ASSERTING NEW CLAIMS WITHOUT LEAVE
OF COURT

On April 25, 2012, when the Court Granted Defendants' Motion to Dismiss, Plaintiff was given leave to amend her claims against the Bureau of Prisons and the Doe Defendants under (1) the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2401; and (2) *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) ("*Bivens*"), for injuries relating to an alleged sexual assault in September 2006.

In September 2012, Plaintiff filed an amended complaint alleging that from 1996 to 2010, former wardens at the Federal Correctional Institution in Dublin, California, its Chief Medical Administrator, and Plaintiff's doctors conspired to conceal her lupus diagnosis and failed to provide proper medical treatment. Plaintiff was not granted leave to allege these claims.

As set forth below, the Court is considering certain action. However, before proceeding with such action, Plaintiff will have an opportunity to respond as set forth herein. Accordingly, by no later than **Friday, December 7, 2012**, Plaintiff is **ORDERED TO SHOW CAUSE**:

(1) why the Amended Complaint should not be stricken for alleging new claims against new defendants without leave of Court;

(2) whether Plaintiff has abandoned the *Bivens* and FTCA claims alleged in Plaintiff's original complaint against the Bureau of Prisons and the Doe Defendants for injuries relating to a sexual assault that occurred in September 2006; and

1 (3) whether Plaintiff's claims should be dismissed for failure to file an administrative claim .
2 Plaintiff shall respond to the Order to Show Cause by filing a written response on each of the three
3 issues listed **by no later than Friday, December 7, 2012**. Defendant may file a written response by
4 Friday, December 14, 2012.

5 A hearing on this Order to Show Cause will be held on **Friday, December 21, 2012** on the
6 Court's **9:01 a.m.** Calendar, in the Federal Courthouse, 1301 Clay Street, Oakland, California, in
7 Courtroom 5. Parties may appear by telephone at the hearing. To arrange to appear by telephone,
8 each party must contact Frances Stone, the Courtroom Deputy, at 510/637-3540.

9 Failure to file a written response or to appear at the hearing (in person or by telephone) will be
10 deemed an admission that no good cause exists, that the amended complaint should be stricken, and
11 this case should be dismissed.

12 The hearing on Defendant's Motion to Dismiss set for December 18, 2012 is **VACATED**.

13 **IT IS SO ORDERED.**

14 Date: November 16, 2012

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16 **YVONNE GONZALEZ ROGERS**
17 **UNITED STATES DISTRICT COURT JUDGE**
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